VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL
COMMONWEALTH OF VIRGINIA

Delegate James M. LeMunyon, Chair
Senator Richard H. Stuart, Vice-Chair
foiacouncil@dls.virginia.gov

Maria J.K. Everett, Esq., Executive Director/ Senior Attorney
Alan Gernhardt, Esq., Senior Attorney
Jessica L. Budd, Esq., Attorney

December 6, 2016

HJR 96 Study Issues continued to 2017

- Proprietary records and trade secrets draft proposed by the Virginia Press Association. *Note: The Record Subcommittee recommended that study of § 2.2-3705.6 (proprietary record exclusions) be carried over to 2017 as efforts were unsuccessful in reaching consensus to create a general exemption for trade secrets and proprietary records.*

- Review of FOIA in light of advancement in technology
    - FOIA policy statement. *At the beginning of the HJR 96 study, staff suggested that FOIA be amended to include a policy statement to the effect that: "Any public body procuring any computer system, equipment or software, shall ensure that the proposed system, equipment or software is capable of producing public records in accordance with this chapter." It is believed that inclusion in FOIA as part of its policy statement would enhance compliance with the redaction rule of FOIA.*
    - Definitions
    - Vendor proprietary software" is exempt from release under FOIA (2.2-3705.1(6)), necessity to continue to include the exemption for software "developed by or for a state agency....." in 2.2-3705.1(7)? (From Chairman's list of FOIA issues)
    - Website posting of notice and minutes (§§ 2.2-3707 and 2.2-3707.1
    - Texting among members during public meetings

- Access to law-enforcement records (§ 2.2-3706)

- Personnel records (§ 2.2-3705.1)

- Enforcement of FOIA; penalties for violations.

- Reorganization of FOIA. *Examine the organizational structure of FOIA and make recommendations to improve the readability and clarity.*

#